

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application 14706 of William and Bernice Silverman, pursuant to 11 DCMR 3107.2, for a variance from the set back requirements (Paragraph 400.8,b) to construct a penthouse in an R-1-B District at premises 4602 Kenmore Drive, N.W., (Square 1364, Lot 11)

HEARING DATE: November 18, 1987

DECISION DATE: December 12, 1987

FINDINGS OF FACT:

1. The site known as premises 4602 Kenmore Drive, N.W., is located on the south side of Kenmore Drive near its intersection with Reservoir Road. The site is located in an R-1-B District.

2. The site is basically rectangular in shape with a width of approximately 51 feet and a depth of approximately 108 feet. The site is improved with a three story structure under construction at the time of the application. The site slopes from Kenmore Drive to a 25 foot wide public alley located to the rear, or south of the site. The structure is four stories in height at the rear.

3. The R-1-B District extends in all directions from the site. The area immediately surrounding the site is primarily developed with single-family detached dwellings.

4. As captioned above the applicant is seeking an area variance to allow the construction of a penthouse to the structure.

5. The penthouse is requested to accommodate an elevator which will enable the applicant, who is physically unable to climb stairs, to utilize the roof for air and exercise. The property does not have a usable rear yard.

6. The subject structure is presently under construction. The exterior of the structure will be finished with a reddish orange brick and natural stone. To properly balance the elevator and minimize malfunctions, the elevator shaft should be built out of cinderblocks. The location of the elevator shaft and penthouse at the outside wall is intended to efficiently and structurally tie in the masonry of the cinderblocks with the brick work.

7. The penthouse structure would be 10 feet wide by 25 feet deep and contain the elevator, staircase, landing and a closet size area for a heater and hot water tank.

8. The total roof terrace area measures approximately 1,581 square feet. The penthouse will occupy approximately 15 percent of this space.

9. By letter dated November 2, 1987 Advisory Neighborhood Commission (ANC) 3B reported that it voted to support the application as "the additional brick parapet... would hide the visual presence of the elevator shaft from public view". The Board concurs.

10. By letter dated November 18, 1987 and at the public hearing, the Foxhall Community Citizens Association expressed its reservation about the application as it was of the understanding that the penthouse would occupy in excess of 30 percent of the top floor and would exceed the permitted 40 foot height limitation. The Board finds that the penthouse would occupy approximately 15% of the roof area and will not cause the total height of the building to exceed the height limit.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose and integrity of the zone plan.


Section 400.8 (b) 11 DCMR requires that the proposed penthouse be set back 9.62 feet from the edge of the roof. The penthouse will be located on the edge of the structure providing no set-back so that a variance of 9.62 feet, or 100 percent is required. The Board concludes that the applicant has met the burden of proof. The penthouse will occupy only 15 percent of the total roof area. The penthouse design will be in harmony with the side wall to which it is adjacent. The structure will not exceed the height limitation of the R-1-B District.

The Board further concludes that granting the proposed relief will not cause substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan. The Board has accorded to the ANC the "great weight" to which it is entitled. Accordingly, the application is GRANTED SUBJECT to the condition that construction shall be in accordance with the plans marked as Exhibit No. 9 of the record.

VOTE: 5-0 (Charles R. Norris, Carrie L. Thornhill, Paula L. Jewell and William F. McIntosh to grant; Patricia N. Mathews to grant by proxy).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER:

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

order14706/LEE1

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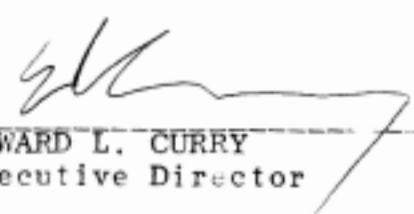
APPLICATION No. 14706

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated MAR 21 1968, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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EDWARD L. CURRY
Executive Director

DATE: MAR 21 1968